

General terms and conditions

General terms and conditions for the provision of services by Sjiem Fat & Mahabir Intellectual Property N.V., based in Paramaribo, Suriname.

Clause 1 General conditions

1.1 These terms and conditions ("the Terms and Conditions") apply to all legally binding relationships (including offers, contracts and all pre-contractual situations) between Sjiem Fat & Mahabir Intellectual Property N.V. (hereafter: "Sjiem Fat & Mahabir") and any third party ("the client") which instructs Sjiem Fat & Mahabir to carry out any activities.

1.2 Changes and additions to any provision in the Terms and Conditions or in the contract to which they have been stated to apply ("the Contract"), are only valid if Sjiem Fat & Mahabir has explicitly accepted such in writing. Changes and additions only apply in respect of the relevant Contract(s).

1.3 If any provision of the Terms and Conditions or the Contract is not effective, the other provisions of the Terms and Conditions or the Contract shall remain in full effect. The relevant ineffective provision shall be replaced by another provision, which effective provision shall approximate the consequences intended by the ineffective provision as much as possible.

Clause 2 Conclusion of the Contract

2.1 The Contract between Sjiem Fat & Mahabir and the client shall be concluded at the time that the client gives Sjiem Fat & Mahabir written or verbal instruction to provide services and Sjiem Fat & Mahabir accepts such instruction.

With regard to the activities for which, in connection with the nature and scope of the activities no assignment confirmation is sent out, the invoice shall be deemed the assignment confirmation, which shall be deemed to accurately represent the Contract in full.

2.2 All agreements and/or legally binding transactions which are agreed/performed/executed as a result of the provisions of 2.1, are deemed to be performance of the Contract.

2.3 In the event of assignments or offers and commitments on the part of Sjiem Fat & Mahabir, which Sjiem Fat & Mahabir has not confirmed in writing, the interpretation of the contents and scope of the Contract shall be exclusively determined by Sjiem Fat & Mahabir, subject to evidence of the client to the contrary. If and insofar as the client wishes to derive rights from the assignment, the assignment must be confirmed in writing.

2.4 Sjiem Fat & Mahabir reserves the right to refuse assignments without stating any reasons therefor.

2.5 Sjiem Fat & Mahabir is entitled - if Sjiem Fat & Mahabir deems such necessary or desirable - to engage third parties for the proper execution of the assignment. The costs of said third parties shall be charged to the client.

Clause 3 Rates

3.1 The fee for the activities to be executed by Sjiem Fat & Mahabir shall be:

- a. for costs of mediation in registration and other entries in trademark and design registers, including the drawing up of the taxes, retribution(s) and other fees of foreign agents/correspondents owed in this respect: in accordance with fixed rates (exclusive of turnover tax), or in conformity with the amounts specifically offered by Sjiem Fat & Mahabir in this respect;
- b. for other activities than those set out in 3.1 a: on the basis of the hours put in on the agreed activities in accordance with an hourly rate fixed by Sjiem Fat & Mahabir (exclusive of turnover tax).

The applicable rates are the rates set out in the most recent price lists or the prices which Sjiem Fat & Mahabir has confirmed to the client.

3.2 If prices and/or rates of price-determining factors, such as taxes, salaries and insurance rates, are increased, due to any cause whatsoever, Sjiem Fat & Mahabir is entitled to increase the rates accordingly and pass such increases on to the client.

Clause 4 Payment

4.1 Sjiem Fat & Mahabir shall charge the client for the activities executed by Sjiem Fat & Mahabir and the costs incurred by it on the basis of invoices.

4.2 Unless explicitly otherwise agreed in writing, invoices are to be paid to Sjiem Fat & Mahabir within thirty (30) days after the invoice date. The payment is to be effected without any discount, withholding or set-off. The client does not have the right to suspend his payment obligations.

4.3 The currency date set out on the bank statements shall be deemed the date of payment. Disputes of any nature whatsoever do not affect the aforementioned payment obligations.

4.4 Every invoice or claim shall be deemed a separate claim of Sjiem Fat & Mahabir on the client.

4.5 The client is at all times liable for the payment of the outstanding invoices in the name of the client, even when the client has indicated that the assignment was granted on behalf of a third party. If the client grants an assignment on behalf of a third party and does not wish to take on any independent obligations, such must be explicitly stated in writing when granting the assignment.

Clause 5 Activities/guarantee

5.1 Sjiem Fat & Mahabir guarantees that it shall execute the agreed activities to the best of its ability, in accordance with the code of conduct common in this business.

5.2 The client explicitly agrees to the following:

a. With regard to the searches for trademarks, designs, trade names, etc., to be carried out by Sjiem Fat & Mahabir, or through its intervention, Sjiem Fat & Mahabir does not guarantee completeness, nor does it give any other guarantee with regard to the results of such searches. Any advice with regard to the availability of a trademark or design is without commitment on the part of Sjiem Fat & Mahabir. The decision whether or not to carry a trademark or design, and all other decisions relating to a search, are taken by and fully at the expense and risk of the client.

b. In the event of searches, the task of Sjiem Fat & Mahabir is limited to searches for trademarks and/or designs and/or trade names, depending on the client's assignment, which are registered in the relevant trademark or design registers, and which have been made public by the relevant authorities. The client must himself take measures for market searches and other searches which are or can be (partly) determining for the permissibility or availability of a trademark.

c. With regard to requests to register a trademark or design in a trademark or design register, the task of Sjiem Fat & Mahabir is limited to the drawing up of the requisite documents and the submission of said documents to the competent authorities. The client is himself at all times responsible for the timely and proper delivery to Sjiem Fat & Mahabir of all necessary documents, copies and information which Sjiem Fat & Mahabir has requested. In specific Sjiem Fat & Mahabir is not bound in advance to carry out actions on its own initiative with regard to the availability and/or permissibility and/or capability of protection of a trademark or design.

d. With regard to the watching of trademarks, designs and trade names, Sjiem Fat & Mahabir gives no guarantee with regard to the completeness of the watch service.

e. In the event a term is set for the submission of documents or information, or for any action whatsoever, Sjiem Fat & Mahabir shall take the requisite action in due time to the best of its ability. In all cases the client is responsible for the timely delivery of the necessary documents or information.

Unless explicitly otherwise agreed in writing, Sjiem Fat & Mahabir shall not be obliged to execute the activities with which he has been instructed before or at a specific time.

Clause 6 Liability

6.1 Sjiem Fat & Mahabir does not guarantee the accuracy and/or completeness of the information furnished by or on behalf of the client to Sjiem Fat & Mahabir and does not accept any liability therefore or for the consequences thereof. The furnishing of inaccurate and/or incomplete information by or on behalf of the client (even if such is in good faith) gives Sjiem Fat & Mahabir the right to invoke Clause 8 (termination).

6.2 On the basis of the nature of the activities of Sjiem Fat & Mahabir and the subjective evaluation aspects which always play a role in this respect, Sjiem Fat & Mahabir is not liable for any damage ensuing from its activities except in the event of intent or gross negligence.

6.3 Sjiem Fat & Mahabir is not liable for damage of any nature whatsoever caused by actions or omissions of personnel employed by Sjiem Fat & Mahabir or other persons whose services are used by Sjiem Fat & Mahabir, including advice given by such persons, except in the event of intent and/or gross negligence.

6.4 The burden of proof relating to any alleged liability of Sjiem Fat & Mahabir lies with the client. The client accepts this burden of proof.

6.5 The client shall indemnify Sjiem Fat & Mahabir in respect of claims of third parties against damage connected with or ensuing from the Contract or any trademark registration or other action executed by Sjiem Fat & Mahabir pursuant to the Contract.

Clause 7 Force majeure

7.1 In the event of force majeure Sjiem Fat & Mahabir is entitled, without judicial intervention, to either suspend the performance of the Contract as long as the circumstance causing the force majeure continues, or to terminate the Contract in whole or in part, without being bound to pay any compensation or penalty. In the event of suspension Sjiem Fat & Mahabir is entitled to terminate the Contract in whole or in part.

7.2 Force majeure includes all circumstances whereby Sjiem Fat & Mahabir temporarily or permanently will not be able to perform his obligations, such as not possessing sufficient information from or being given inaccurate information by the client or the lack of sufficient cooperation by the client and fire, flood, strikes, unrest, traffic jams, mobilization, war, computer malfunction and disruptions in postal and telecommunication activities, failure of utility supplies by public utility companies and furthermore all circumstances whereby it cannot be reasonably demanded of Sjiem Fat & Mahabir that it does not perform its obligations or continue with the performance of its obligations to the client.

7.3 Sjiem Fat & Mahabir is always entitled to demand payment of the activities or advances which were executed to perform the relevant Contract, or which became owed before the circumstances causing force majeure had arisen.

Clause 8 Termination/suspension/compensation

8.1 If the client:

- a. petitions for his own bankruptcy, is declared bankrupt, assigns his estate, presents a petition for a moratorium; or
 - b. ceases or liquidates his business or a significant part thereof, or if a decision to this effect is taken; or
 - c. does not perform any obligation under the law or contractual conditions vis-à-vis Sjiem Fat & Mahabir or does not perform such properly or in time;
- the client shall be deemed to be legally in default and any (remaining) debt to Sjiem Fat & Mahabir shall be immediately due.

8.2 Sjiem Fat & Mahabir is entitled in the cases referred to in Paragraph 1, without any obligation to pay compensation and without prejudice to its other rights, such as rights with regard to penalties, interest and the right to compensation which have already fallen due, and without the need for any notice of default or judicial intervention:

- a. to terminate the Contract in whole or in part by giving the client written notice to this effect and/or
- b. to demand immediate and full payment of any amount which the client owes Sjiem Fat & Mahabir and/or
- c. before continuing performance of the Contract, to demand that the client gives security for (timely) performance of its payment obligations.

Clause 9 Duty of disclosure

The client is obliged to immediately inform Sjiem Fat & Mahabir if (one of the) circumstances referred to in Clause 8 Paragraph 1. a and b arises, or if there is force majeure on the basis of which the client cannot perform his obligations vis-à-vis Sjiem Fat & Mahabir or cannot furnish information on facts and circumstances which can (partly) be of influence on the evaluation of a situation over which Sjiem Fat & Mahabir gives advice.

Clause 10 Applicable law and competent court

10.1 All contracts and/or actions carried out between Sjiem Fat & Mahabir and the client are exclusively subject to Surinamese law.

10.2 Disputes between the parties shall in the first instance be exclusively brought before the competent court in Suriname, without prejudice to Sjiem Fat & Mahabir's right to bring any disputes before the court which has jurisdiction under the law.

Last Updated

These Terms and Conditions were last updated on November 1, 2016.